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General Assembly
Security Council

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General Assembly
Sixty-eighth session
Agenda item 35
The situation in the Middle East

Security Council
Sixty-ninth year

Identical letters dated 19 March 2014 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General and the President of the Security Council

Yesterday, Tuesday, 18 March 2014, in yet another blatant violation of the 1974 Agreement on Disengagement, the Charter of the United Nations and the rules of international law, Israeli occupation forces, citing spurious justifications, once again attacked positions inside the territory of the Syrian Arab Republic. The justification offered this time was that a mine had exploded some 2 kilometres south of Ayn al-Tinah, near the village of Suhayta. At 1450 hours, enemy forces fired 6 artillery rounds at the location where the mine had exploded. At 1500 hours, they fired 8 artillery rounds at the Suhayta position and another 2 artillery rounds to the south of Hadar. Later, at 1515 hours, enemy forces at a position west of Jubbata al-Khashab fired 4 anti-armour missiles from two helicopters and 25 tank shells towards hill No. 1023, causing significant material damage.

Not satisfied with this aggression, at 0255 hours on 19 March 2014, Israel occupation forces carried out yet another aggression. This time, four Israeli aircraft fired 3 missiles at the Kawm al-Waysiyah position and 1 missile at Nab' al-Fawwar. In another attack, Israel aircraft fired a missile at the Sa'sa' position. One person was killed and seven others were injured in those attacks. In addition, fires broke out and significant material damage occurred at the three sites.

The Syrian Arab Republic draws the attention of the Secretary-General and the President of the Security Council to these violations and calls on the Security Council to do what is necessary to deter Israel from continuing in its aggression, the purpose of which is to create a crisis and threaten regional and global security and peace. It also calls on the Council to condemn clearly these acts of aggression, which are a shameless violation of the Agreement on Disengagement and a means by which Israel provides direct support to the armed terrorist groups that are operating in the area of separation and the surrounding areas. We should like to recall that Israel, which complains to the Security Council even when a shepherd mistakenly enters the area of separation, is providing direct and indirect support to

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the armed terrorist groups that are in the area of separation by, inter alia, treating wounded terrorists and returning them so that they can resume combat and once again commit crimes against the people living in the area.

Syria reiterates its request that the Security Council should enforce its relevant resolutions, including resolutions 242 (1967), 338 (1973) and 497 (1981), which call for Israel to withdraw from all occupied Arab territory, including the occupied Syrian Golan, to the lines of 4 June 1967.

I should be grateful if the present letter could be circulated as a document of the sixty-eighth session of the General Assembly, under agenda item 35, and of the Security Council.

(*Signed*) Bashar **Ja'afari**
Permanent Representative of
the Syrian Arab Republic to the United Nations

United Nations A/68/803–S/2014/202

General Assembly
Security Council

Distr.: General
20 March 2014

Original: English

General Assembly
Sixty-eighth session
Agenda item 68
Right of peoples to self-determination

Security Council
Sixty-ninth year

Letter dated 19 March 2014 from the Permanent Representative of the Russian Federation to the United Nations addressed to the Secretary-General

I have the honour to attach hereto the text of the address by the President of the Russian Federation, Vladimir Putin, which he delivered at the Kremlin, Moscow, on 18 March 2014 before State Duma deputies, Federation Council members, heads of Russian regions and civil society representatives (see annex).

I should be grateful if you would circulate the present letter and its annex as an official document of the General Assembly, under agenda item 68, and of the Security Council.

(*Signed*) Vitaly **Churkin**

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Annex to the letter dated 19 March 2014 from the Permanent Representative of the Russian Federation to the United Nations addressed to the Secretary-General

[Original: English and Russian]

Address by President of the Russian Federation

18 March 2014

Federation Council members, State Duma deputies, good afternoon. Representatives of the Republic of Crimea and Sevastopol are here among us, citizens of Russia, residents of Crimea and Sevastopol!

Dear friends, we have gathered here today in connection with an issue that is of vital, historic significance to all of us. A referendum was held in Crimea on March 16 in full compliance with democratic procedures and international norms.

More than 82 percent of the electorate took part in the vote. Over 96 percent of them spoke out in favour of reuniting with Russia. These numbers speak for themselves.

To understand the reason behind such a choice it is enough to know the history of Crimea and what Russia and Crimea have always meant for each other.

Everything in Crimea speaks of our shared history and pride. This is the location of ancient Khersones, where Prince Vladimir was baptised. His spiritual feat of adopting Orthodoxy predetermined the overall basis of the culture, civilisation and human values that unite the peoples of Russia, Ukraine and Belarus. The graves of Russian soldiers whose bravery brought Crimea into the Russian empire are also in Crimea. This is also Sevastopol — a legendary city with an outstanding history, a fortress that serves as the birthplace of Russia's Black Sea Fleet. Crimea is Balaklava and Kerch, Malakhov Kurgan and Sapun Ridge. Each one of these places is dear to our hearts, symbolising Russian military glory and outstanding valour.

Crimea is a unique blend of different peoples' cultures and traditions. This makes it similar to Russia as a whole, where not a single ethnic group has been lost over the centuries. Russians and Ukrainians, Crimean Tatars and people of other ethnic groups have lived side by side in Crimea, retaining their own identity, traditions, languages and faith.

Incidentally, the total population of the Crimean Peninsula today is 2.2 million people, of whom almost 1.5 million are Russians, 350,000 are Ukrainians who predominantly consider Russian their native language, and about 290,000-300,000 are Crimean Tatars, who, as the referendum has shown, also lean towards Russia.

True, there was a time when Crimean Tatars were treated unfairly, just as a number of other peoples in the USSR. There is only one thing I can say here: millions of people of various ethnicities suffered during those repressions, and primarily Russians.

Crimean Tatars returned to their homeland. I believe we should make all the necessary political and legislative decisions to finalise the rehabilitation of Crimean Tatars, restore them in their rights and clear their good name.

We have great respect for people of all the ethnic groups living in Crimea. This is their common home, their motherland, and it would be right — I know the local population supports this — for Crimea to have three equal national languages: Russian, Ukrainian and Tatar.

Colleagues,

In people's hearts and minds, Crimea has always been an inseparable part of Russia. This firm conviction is based on truth and justice and was passed from generation to generation, over time, under any circumstances, despite all the dramatic changes our country went through during the entire 20th century.

After the revolution, the Bolsheviks, for a number of reasons — may God judge them — added large sections of the historical South of Russia to the Republic of Ukraine. This was done with no consideration for the ethnic make-up of the population, and today these areas form the southeast of Ukraine. Then, in 1954, a decision was made to transfer Crimean Region to Ukraine, along with Sevastopol, despite the fact that it was a federal city. This was the personal initiative of the Communist Party head Nikita Khrushchev. What stood behind this decision of his — a desire to win the support of the Ukrainian political establishment or to atone for the mass repressions of the 1930's in Ukraine — is for historians to figure out.

What matters now is that this decision was made in clear violation of the constitutional norms that were in place even then. The decision was made behind the scenes. Naturally, in a totalitarian state nobody bothered to ask the citizens of Crimea and Sevastopol. They were faced with the fact. People, of course, wondered why all of a sudden Crimea became part of Ukraine. But on the whole — and we must state this clearly, we all know it — this decision was treated as a formality of sorts because the territory was transferred within the boundaries of a single state. Back then, it was impossible to imagine that Ukraine and Russia may split up and become two separate states. However, this has happened.

Unfortunately, what seemed impossible became a reality. The USSR fell apart. Things developed so swiftly that few people realised how truly dramatic those events and their consequences would be. Many people both in Russia and in Ukraine, as well as in other republics hoped that the Commonwealth of Independent States that was created at the time would become the new common form of statehood. They were told that there would be a single currency, a single economic space, joint armed forces; however, all this remained empty promises, while the big country was gone. It was only when Crimea ended up as part of a different country that Russia realised that it was not simply robbed, it was plundered.

At the same time, we have to admit that by launching the sovereignty parade Russia itself aided in the collapse of the Soviet Union. And as this collapse was legalised, everyone forgot about Crimea and Sevastopol — the main base of the Black Sea Fleet. Millions of people went to bed in one country and awoke in different ones, overnight becoming ethnic minorities in former Union republics, while the Russian nation became one of the biggest, if not the biggest ethnic group in the world to be divided by borders.

Now, many years later, I heard residents of Crimea say that back in 1991 they were handed over like a sack of potatoes. This is hard to disagree with. And what about the Russian state? What about Russia? It humbly accepted the situation. This country was going through such hard times then that realistically it was incapable of

protecting its interests. However, the people could not reconcile themselves to this outrageous historical injustice. All these years, citizens and many public figures came back to this issue, saying that Crimea is historically Russian land and Sevastopol is a Russian city. Yes, we all knew this in our hearts and minds, but we had to proceed from the existing reality and build our good-neighbourly relations with independent Ukraine on a new basis. Meanwhile, our relations with Ukraine, with the fraternal Ukrainian people have always been and will remain of foremost importance for us.

Today we can speak about it openly, and I would like to share with you some details of the negotiations that took place in the early 2000s. The then President of Ukraine Mr Kuchma asked me to expedite the process of delimiting the Russian-Ukrainian border. At that time, the process was practically at a standstill. Russia seemed to have recognised Crimea as part of Ukraine, but there were no negotiations on delimiting the borders. Despite the complexity of the situation, I immediately issued instructions to Russian government agencies to speed up their work to document the borders, so that everyone had a clear understanding that by agreeing to delimit the border we admitted de facto and de jure that Crimea was Ukrainian territory, thereby closing the issue.

We accommodated Ukraine not only regarding Crimea, but also on such a complicated matter as the maritime boundary in the Sea of Azov and the Kerch Strait. What we proceeded from back then was that good relations with Ukraine matter most for us and they should not fall hostage to deadlock territorial disputes. However, we expected Ukraine to remain our good neighbour, we hoped that Russian citizens and Russian speakers in Ukraine, especially its southeast and Crimea, would live in a friendly, democratic and civilised state that would protect their rights in line with the norms of international law.

However, this is not how the situation developed. Time and time again attempts were made to deprive Russians of their historical memory, even of their language and to subject them to forced assimilation. Moreover, Russians, just as other citizens of Ukraine are suffering from the constant political and state crisis that has been rocking the country for over 20 years.

I understand why Ukrainian people wanted change. They have had enough of the authorities in power during the years of Ukraine's independence. Presidents, prime ministers and parliamentarians changed, but their attitude to the country and its people remained the same. They milked the country, fought among themselves for power, assets and cash flows and did not care much about the ordinary people. They did not wonder why it was that millions of Ukrainian citizens saw no prospects at home and went to other countries to work as day labourers. I would like to stress this: it was not some Silicon Valley they fled to, but to become day labourers. Last year alone almost 3 million people found such jobs in Russia. According to some sources, in 2013 their earnings in Russia totalled over $20 billion, which is about 12% of Ukraine's GDP.

I would like to reiterate that I understand those who came out on Maidan with peaceful slogans against corruption, inefficient state management and poverty. The right to peaceful protest, democratic procedures and elections exist for the sole purpose of replacing the authorities that do not satisfy the people. However, those who stood behind the latest events in Ukraine had a different agenda: they were preparing yet another government takeover; they wanted to seize power and would

stop short of nothing. They resorted to terror, murder and riots. Nationalists, neo-Nazis, Russophobes and anti-Semites executed this coup. They continue to set the tone in Ukraine to this day.

The new so-called authorities began by introducing a draft law to revise the language policy, which was a direct infringement on the rights of ethnic minorities. However, they were immediately 'disciplined' by the foreign sponsors of these so-called politicians. One has to admit that the mentors of these current authorities are smart and know well what such attempts to build a purely Ukrainian state may lead to. The draft law was set aside, but clearly reserved for the future. Hardly any mention is made of this attempt now, probably on the presumption that people have a short memory. Nevertheless, we can all clearly see the intentions of these ideological heirs of Bandera, Hitler's accomplice during World War II.

It is also obvious that there is no legitimate executive authority in Ukraine now, nobody to talk to. Many government agencies have been taken over by the impostors, but they do not have any control in the country, while they themselves — and I would like to stress this — are often controlled by radicals. In some cases, you need a special permit from the militants on Maidan to meet with certain ministers of the current government. This is not a joke — this is reality.

Those who opposed the coup were immediately threatened with repression. Naturally, the first in line here was Crimea, the Russian-speaking Crimea. In view of this, the residents of Crimea and Sevastopol turned to Russia for help in defending their rights and lives, in preventing the events that were unfolding and are still underway in Kiev, Donetsk, Kharkov and other Ukrainian cities.

Naturally, we could not leave this plea unheeded; we could not abandon Crimea and its residents in distress. This would have been betrayal on our part.

First, we had to help create conditions so that the residents of Crimea for the first time in history were able to peacefully express their free will regarding their own future. However, what do we hear from our colleagues in Western Europe and North America? They say we are violating norms of international law. Firstly, it's a good thing that they at least remember that there exists such a thing as international law — better late than never.

Secondly, and most importantly — what exactly are we violating? True, the President of the Russian Federation received permission from the Upper House of Parliament to use the Armed Forces in Ukraine. However, strictly speaking, nobody has acted on this permission yet. Russia's Armed Forces never entered Crimea; they were there already in line with an international agreement. True, we did enhance our forces there; however — this is something I would like everyone to hear and know — we did not exceed the personnel limit of our Armed Forces in Crimea, which is set at 25,000, because there was no need to do so.

Next. As it declared independence and decided to hold a referendum, the Supreme Council of Crimea referred to the United Nations Charter, which speaks of the right of nations to self-determination. Incidentally, I would like to remind you that when Ukraine seceded from the USSR it did exactly the same thing, almost word for word. Ukraine used this right, yet the residents of Crimea are denied it. Why is that?

Moreover, the Crimean authorities referred to the well-known Kosovo precedent — a precedent our western colleagues created with their own hands in a very similar situation, when they agreed that the unilateral separation of Kosovo from Serbia, exactly what Crimea is doing now, was legitimate and did not require any permission from the country's central authorities. Pursuant to Article 2, Chapter 1 of the United Nations Charter, the UN International Court agreed with this approach and made the following comment in its ruling of July 22, 2010, and I quote: "No general prohibition may be inferred from the practice of the Security Council with regard to declarations of independence," and "General international law contains no prohibition on declarations of independence." Crystal clear, as they say.

I do not like to resort to quotes, but in this case, I cannot help it. Here is a quote from another official document: the Written Statement of the United States America of April 17, 2009, submitted to the same UN International Court in connection with the hearings on Kosovo. Again, I quote: "Declarations of independence may, and often do, violate domestic legislation. However, this does not make them violations of international law." End of quote. They wrote this, disseminated it all over the world, had everyone agree and now they are outraged. Over what? The actions of Crimean people completely fit in with these instructions, as it were. For some reason, things that Kosovo Albanians (and we have full respect for them) were permitted to do, Russians, Ukrainians and Crimean Tatars in Crimea are not allowed. Again, one wonders why.

We keep hearing from the United States and Western Europe that Kosovo is some special case. What makes it so special in the eyes of our colleagues? It turns out that it is the fact that the conflict in Kosovo resulted in so many human casualties. Is this a legal argument? The ruling of the International Court says nothing about this. This is not even double standards; this is amazing, primitive, blunt cynicism. One should not try so crudely to make everything suit their interests, calling the same thing white today and black tomorrow. According to this logic, we have to make sure every conflict leads to human losses.

I will state clearly — if the Crimean local self-defence units had not taken the situation under control, there could have been casualties as well. Fortunately this did not happen. There was not a single armed confrontation in Crimea and no casualties. Why do you think this was so? The answer is simple: because it is very difficult, practically impossible to fight against the will of the people. Here I would like to thank the Ukrainian military — and this is 22,000 fully armed servicemen. I would like to thank those Ukrainian service members who refrained from bloodshed and did not smear their uniforms in blood.

Other thoughts come to mind in this connection. They keep talking of some Russian intervention in Crimea, some sort of aggression. This is strange to hear. I cannot recall a single case in history of an intervention without a single shot being fired and with no human casualties.

Colleagues,

Like a mirror, the situation in Ukraine reflects what is going on and what has been happening in the world over the past several decades. After the dissolution of bipolarity on the planet, we no longer have stability. Key international institutions are not getting any stronger; on the contrary, in many cases, they are sadly degrading. Our western partners, led by the United States of America, prefer not to

be guided by international law in their practical policies, but by the rule of the gun. They have come to believe in their exclusivity and exceptionalism, that they can decide the destinies of the world, that only they can ever be right. They act as they please: here and there, they use force against sovereign states, building coalitions based on the principle "If you are not with us, you are against us." To make this aggression look legitimate, they force the necessary resolutions from international organisations, and if for some reason this does not work, they simply ignore the UN Security Council and the UN overall.

This happened in Yugoslavia; we remember 1999 very well. It was hard to believe, even seeing it with my own eyes, that at the end of the 20th century, one of Europe's capitals, Belgrade, was under missile attack for several weeks, and then came the real intervention. Was there a UN Security Council resolution on this matter, allowing for these actions? Nothing of the sort. And then, they hit Afghanistan, Iraq, and frankly violated the UN Security Council resolution on Libya, when instead of imposing the so-called no-fly zone over it they started bombing it too.

There was a whole series of controlled "colour" revolutions. Clearly, the people in those nations, where these events took place, were sick of tyranny and poverty, of their lack of prospects; but these feelings were taken advantage of cynically. Standards were imposed on these nations that did not in any way correspond to their way of life, traditions, or these peoples' cultures. As a result, instead of democracy and freedom, there was chaos, outbreaks in violence and a series of upheavals. The Arab Spring turned into the Arab Winter.

A similar situation unfolded in Ukraine. In 2004, to push the necessary candidate through at the presidential elections, they thought up some sort of third round that was not stipulated by the law. It was absurd and a mockery of the constitution. And now, they have thrown in an organised and well-equipped army of militants.

We understand what is happening; we understand that these actions were aimed against Ukraine and Russia and against Eurasian integration. And all this while Russia strived to engage in dialogue with our colleagues in the West. We are constantly proposing cooperation on all key issues; we want to strengthen our level of trust and for our relations to be equal, open and fair. But we saw no reciprocal steps.

On the contrary, they have lied to us many times, made decisions behind our backs, placed us before an accomplished fact. This happened with NATO's expansion to the East, as well as the deployment of military infrastructure at our borders. They kept telling us the same thing: "Well, this does not concern you." That's easy to say.

It happened with the deployment of a missile defence system. In spite of all our apprehensions, the project is working and moving forward. It happened with the endless foot-dragging in the talks on visa issues, promises of fair competition and free access to global markets.

Today, we are being threatened with sanctions, but we already experience many limitations, ones that are quite significant for us, our economy and our nation. For example, still during the times of the Cold War, the US and subsequently other nations restricted a large list of technologies and equipment from being sold to the

USSR, creating the Coordinating Committee for Multilateral Export Controls list. Today, they have formally been eliminated, but only formally; and in reality, many limitations are still in effect.

In short, we have every reason to assume that the infamous policy of containment, led in the 18th, 19th and 20th centuries, continues today. They are constantly trying to sweep us into a corner because we have an independent position, because we maintain it and because we call things like they are and do not engage in hypocrisy. But there is a limit to everything. And with Ukraine, our western partners have crossed the line, playing the bear and acting irresponsibly and unprofessionally.

After all, they were fully aware that there are millions of Russians living in Ukraine and in Crimea. They must have really lacked political instinct and common sense not to foresee all the consequences of their actions. Russia found itself in a position it could not retreat from. If you compress the spring all the way to its limit, it will snap back hard. You must always remember this.

Today, it is imperative to end this hysteria, to refute the rhetoric of the cold war and to accept the obvious fact: Russia is an independent, active participant in international affairs; like other countries, it has its own national interests that need to be taken into account and respected.

At the same time, we are grateful to all those who understood our actions in Crimea; we are grateful to the people of China, whose leaders have always considered the situation in Ukraine and Crimea taking into account the full historical and political context, and greatly appreciate India's reserve and objectivity.

Today, I would like to address the people of the United States of America, the people who, since the foundation of their nation and adoption of the Declaration of Independence, have been proud to hold freedom above all else. Isn't the desire of Crimea's residents to freely choose their fate such a value? Please understand us.

I believe that the Europeans, first and foremost, the Germans, will also understand me. Let me remind you that in the course of political consultations on the unification of East and West Germany, at the expert, though very high level, some nations that were then and are now Germany's allies did not support the idea of unification. Our nation, however, unequivocally supported the sincere, unstoppable desire of the Germans for national unity. I am confident that you have not forgotten this, and I expect that the citizens of Germany will also support the aspiration of the Russians, of historical Russia, to restore unity.

I also want to address the people of Ukraine. I sincerely want you to understand us: we do not want to harm you in any way, or to hurt your national feelings. We have always respected the territorial integrity of the Ukrainian state, incidentally, unlike those who sacrificed Ukraine's unity for their political ambitions. They flaunt slogans about Ukraine's greatness, but they are the ones who did everything to divide the nation. Today's civil standoff is entirely on their conscience. I want you to hear me, my dear friends. Do not believe those who want you to fear Russia, shouting that other regions will follow Crimea. We do not want to divide Ukraine; we do not need that. As for Crimea, it was and remains a Russian, Ukrainian, and Crimean-Tatar land.

I repeat, just as it has been for centuries, it will be a home to all the peoples living there. What it will never be and do is follow in Bandera's footsteps!

Crimea is our common historical legacy and a very important factor in regional stability. And this strategic territory should be part of a strong and stable sovereignty, which today can only be Russian. Otherwise, dear friends (I am addressing both Ukraine and Russia), you and we — the Russians and the Ukrainians — could lose Crimea completely, and that could happen in the near historical perspective. Please think about it.

Let me note too that we have already heard declarations from Kiev about Ukraine soon joining NATO. What would this have meant for Crimea and Sevastopol in the future? It would have meant that NATO's navy would be right there in this city of Russia's military glory, and this would create not an illusory but a perfectly real threat to the whole of southern Russia. These are things that could have become reality were it not for the choice the Crimean people made, and I want to say thank you to them for this.

But let me say too that we are not opposed to cooperation with NATO, for this is certainly not the case. For all the internal processes within the organisation, NATO remains a military alliance, and we are against having a military alliance making itself at home right in our backyard or in our historic territory. I simply cannot imagine that we would travel to Sevastopol to visit NATO sailors. Of course, most of them are wonderful guys, but it would be better to have them come and visit us, be our guests, rather than the other way round.

Let me say quite frankly that it pains our hearts to see what is happening in Ukraine at the moment, see the people's suffering and their uncertainty about how to get through today and what awaits them tomorrow. Our concerns are understandable because we are not simply close neighbours but, as I have said many times already, we are one people. Kiev is the mother of Russian cities. Ancient Rus is our common source and we cannot live without each other.

Let me say one other thing too. Millions of Russians and Russian-speaking people live in Ukraine and will continue to do so. Russia will always defend their interests using political, diplomatic and legal means. But it should be above all in Ukraine's own interest to ensure that these people's rights and interests are fully protected. This is the guarantee of Ukraine's state stability and territorial integrity.

We want to be friends with Ukraine and we want Ukraine to be a strong, sovereign and self-sufficient country. Ukraine is one of our biggest partners after all. We have many joint projects and I believe in their success no matter what the current difficulties. Most importantly, we want peace and harmony to reign in Ukraine, and we are ready to work together with other countries to do everything possible to facilitate and support this. But as I said, only Ukraine's own people can put their own house in order.

Residents of Crimea and the city of Sevastopol, the whole of Russia admired your courage, dignity and bravery. It was you who decided Crimea's future. We were closer than ever over these days, supporting each other. These were sincere feelings of solidarity. It is at historic turning points such as these that a nation demonstrates its maturity and strength of spirit. The Russian people showed this maturity and strength through their united support for their compatriots.

Russia's foreign policy position on this matter drew its firmness from the will of millions of our people, our national unity and the support of our country's main political and public forces. I want to thank everyone for this patriotic spirit, everyone without exception. Now, we need to continue and maintain this kind of consolidation so as to resolve the tasks our country faces on its road ahead.

Obviously, we will encounter external opposition, but this is a decision that we need to make for ourselves. Are we ready to consistently defend our national interests, or will we forever give in, retreat to who knows where? Some Western politicians are already threatening us with not just sanctions but also the prospect of increasingly serious problems on the domestic front. I would like to know what it is they have in mind exactly: action by a fifth column, this disparate bunch of 'national traitors', or are they hoping to put us in a worsening social and economic situation so as to provoke public discontent? We consider such statements irresponsible and clearly aggressive in tone, and we will respond to them accordingly. At the same time, we will never seek confrontation with our partners, whether in the East or the West, but on the contrary, will do everything we can to build civilised and good-neighbourly relations as one is supposed to in the modern world.

Colleagues,

I understand the people of Crimea, who put the question in the clearest possible terms in the referendum: should Crimea be with Ukraine or with Russia? We can be sure in saying that the authorities in Crimea and Sevastopol, the legislative authorities, when they formulated the question, set aside group and political interests and made the people's fundamental interests alone the cornerstone of their work. The particular historic, population, political and economic circumstances of Crimea would have made any other proposed option — however tempting it could be at the first glance — only temporary and fragile and would have inevitably led to further worsening of the situation there, which would have had disastrous effects on people's lives. The people of Crimea thus decided to put the question in firm and uncompromising form, with no grey areas. The referendum was fair and transparent, and the people of Crimea clearly and convincingly expressed their will and stated that they want to be with Russia.

Russia will also have to make a difficult decision now, taking into account the various domestic and external considerations. What do people here in Russia think? Here, like in any democratic country, people have different points of view, but I want to make the point that the absolute majority of our people clearly do support what is happening.

The most recent public opinion surveys conducted here in Russia show that 95 percent of people think that Russia should protect the interests of Russians and members of other ethnic groups living in Crimea — 95 percent of our citizens. More than 83 percent think that Russia should do this even if it will complicate our relations with some other countries. A total of 86 percent of our people see Crimea as still being Russian territory and part of our country's lands. And one particularly important figure, which corresponds exactly with the result in Crimea's referendum: almost 92 percent of our people support Crimea's reunification with Russia.

Thus we see that the overwhelming majority of people in Crimea and the absolute majority of the Russian Federation's people support the reunification of the Republic of Crimea and the city of Sevastopol with Russia.

Now this is a matter for Russia's own political decision, and any decision here can be based only on the people's will, because the people is the ultimate source of all authority.

Members of the Federation Council, deputies of the State Duma, citizens of Russia, residents of Crimea and Sevastopol, today, in accordance with the people's will, I submit to the Federal Assembly a request to consider a Constitutional Law on the creation of two new constituent entities within the Russian Federation: the Republic of Crimea and the city of Sevastopol, and to ratify the treaty on admitting to the Russian Federation Crimea and Sevastopol, which is already ready for signing. I stand assured of your support.

United Nations S/2014/203

Security Council

Distr.: General
20 March 2014
English
Original: French

Letter dated 19 March 2014 from the Secretary-General addressed to the President of the Security Council

I have the honour to transmit herewith a copy of the letter from the Registrar of the International Criminal Court dated 28 January 2014, transmitting the decision of Pre-Trial Chamber I, entitled *Decision on the admissibility of the case against Abdullah Al-Senussi*, in the case of *The Prosecutor v. Saif Al-Islam Gaddafi and Abdullah Al-Senussi*.

Pre-Trial Chamber I decided on 11 October 2013 that the case of Abdullah Al-Senussi was inadmissible before the Court, owing to the principle of complementarity set forth in article 17 (1) (a) of the Rome Statute.

By his letter, the Registrar conveyed the decision on the admissibility of the case for transmission to the Security Council, pursuant to article 17 of the Negotiated Relationship Agreement between the International Criminal Court and the United Nations. The Registrar also informed the Secretary-General that the decision had been appealed.

I should be grateful if you would have this letter and the summary of the decision on admissibility transmitted to the members of the Security Council. The full text of the decision (in English only) is available at the following address: www.icc-cpi.int/iccdocs/doc/doc1663102.pdf.

(*Signed*) **BAN** Ki-moon

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Annex

[Original: English]

I have the honour to refer to my letter of 15 October 2013 (see S/2013/649) which transmitted the "Decision on the admissibility of the case against Abdullah Al-Senussi" (ICC-01/11-01111-466-Red) issued by Pre-Trial Chamber I on 11 October 2013 for onward transmission to the Security Council in the case of *The Prosecutor v. Saif Al-Islam Gaddafi and Abdullah Al-Senussi*.

In accordance with rule 59 (1) and (2) of the Rules of Procedure and Evidence, I hereby transmit a summary of the Decision for the purpose of informing the Security Council (see enclosure). I would like to add that the Decision was appealed by the Defence of Abdullah Al-Senussi on 17 October 2013 (ICC-01/11-01/11-468-Red) and that the appeal is still pending.

The situation in Libya was referred to the Prosecutor of the International Criminal Court in resolution 1970 (2011) adopted by the Security Council on 26 February 2011.

(*Signed*) Herman **von Hebel**
Registrar

Enclosure

Summary of the Decision on the admissibility of the case against Mr. Abdullah Al-Senussi

Pre-Trial Chamber I of the International Criminal Court decided today that the case against Mr. Al-Senussi is inadmissible before the Court under article 17 (1) (a) of the Rome Statute.

The Chamber issued a warrant of arrest against Mr. Al-Senussi on 27 June 2011 for the crimes against humanity of murder and persecution under article 7 (1) (a) and (h) of the Statute, committed in Benghazi, Libya, from 15 February 2011 until at least 28 February 2011.

Libya filed a challenge to the admissibility of the case against Mr. Al-Senussi on 2 April 2013 and the parties and participants to proceedings subsequently filed written submissions.

Libya submitted that its national judicial system had been actively investigating Mr. Al-Senussi since 9 April 2012. Libya argued that it had provided evidence with a high degree of specificity and probative value, sufficient to prove that it took concrete and specific investigative steps in relation to the same case as that before the Court. The domestic case, it argued, is much broader in subject-matter than the investigation of the Court, but encompasses it nonetheless. The investigations at the national level were said to extend from the 1980s through to the alleged attacks against civilians during the period from 15 February 2011, the commencement of the revolution, until the fall of the Gaddafi regime on 20 October 2011. Libya spelled out the crimes under which, it anticipates, the charges against Mr. Al-Senussi will proceed to trial and it argued that these charges are sufficient to challenge the admissibility of the case successfully.

Moreover, Libya asserted that the investigation is not vitiated by "unwillingness" or "inability". It is suggested that logistical aspects of the trial have been addressed and that an appropriate courtroom complex and prison facilities will be available. The assistance and support received by Libya from a number of United Nations agencies, the European Union and several national Governments, which focused on the provision of transitional justice measures, were said to have had a positive impact upon the prospective trial. Libya stressed that it has no reason to protect Mr. Al-Senussi from investigation or prosecution; that the suspect is in government-controlled custody; and that the necessary evidence and testimony are being collected pursuant to the domestic investigations. Libya insisted that there is no evidence to demonstrate that Libya is either unable or unwilling to carry out a genuine investigation into the case.

Accordingly, the Chamber was requested to declare the case against Mr. Al-Senussi inadmissible before the Court or, in the alternative, to consider implementing a positive approach to complementarity by declaring the case inadmissible subject to the fulfillment of express conditions or other ongoing obligations.

Guided by the jurisprudence of the Appeals Chamber on the interpretation of article 17 of the Statute, the Chamber concluded that, in considering an admissibility challenge, two questions must be addressed:

(a) whether, at the time of the proceedings in respect of an admissibility challenge, there is an ongoing investigation or prosecution of the case at the national level; and

(b) whether the State is unwilling or unable genuinely to carry out such investigation or prosecution.

The first requirement involves a consideration of whether the Libyan investigation covers the "same case", characterized by two components: the same person and the same conduct. The Chamber noted that the Appeals Chamber has interpreted the latter to mean that the investigation or prosecution must cover "substantially" the same conduct. The Chamber stressed that the question of what constitutes "substantially the same conduct as alleged in the proceedings before the Court" will vary according to the concrete facts and circumstances of the case and requires, therefore, a case-by-case analysis.

The Chamber identified the conduct attributed to Mr. Al-Senussi in the proceedings before the Court, as set out in the warrant of arrest issued against him, read in conjunction with the Decision taken pursuant to article 58, and compared it with the conduct constituting the subject matter of the proceedings allegedly carried out by the Libyan judicial authorities, as emerging from the evidence presented by Libya in support of its challenge. The conduct alleged in the case before the Court was found to concern the individual criminal liability of Mr. Al-Senussi for killings and acts of persecution, by reason of their (real or perceived) political opposition to the Gaddafi regime, carried out against civilian demonstrators and political dissidents. The crimes were alleged to have been committed directly by Mr. Al-Senussi or through the Libyan security forces during the repression of demonstrations in Benghazi from 15 February 2011 until at least 20 February 2011, as part of a policy designed at the highest level of the Libyan State machinery to deter and quell, by any means, the revolution against the Gaddafi regime occurring throughout Libya.

The Chamber noted that the Decision taken pursuant to article 58 contains a list of particular "incidents" or "events". However, because they do not represent unique manifestations of Mr. Al-Senussi's alleged criminal conduct but are rather illustrative and non-exhaustive samples, the domestic proceedings need not concern each of those "incidents". Instead, the fact that the national proceedings encompass some of these "incidents", including those that are particularly violent or that appear to be significantly representative of the conduct attributed to Mr. Al-Senussi, was considered an indicator that the same case is being investigated.

The Chamber considered that the evidence submitted by Libya is sufficient to conclude that concrete and progressive steps are being taken by the domestic authorities in the proceedings against Mr. Al-Senussi. The Libyan authorities interviewed witnesses, obtained documentary evidence (such as medical reports, death certificates and written orders), and requested that external sources provide information relevant to the investigation. Multiple lines of investigation were pursued, witnesses were asked to clarify and elaborate on certain parts of their testimony, as well as requested to comment on information provided by other witnesses and on documentary evidence in the investigative record. The investigators inquired about issues of a potentially exculpatory nature, and the resulting information has been duly recorded. Victims reporting the commission of crimes were required to substantiate their assertions with documentary evidence.

The Chamber found that Libya had properly substantiated its assertion that the domestic authorities are seeking to clarify, through the concrete and progressive steps outlined above, the following relevant factual aspects:

(a) the existence of a policy to deter and quell, by any means, the demonstrations against the Gaddafi regime;

(b) the mobilization of militias and equipment, recruitment of mercenaries, incitement of individuals to kill the demonstrators, provision of supplies to the security forces and other arrangements for the repression of the civilian demonstrations, including the role of Mr. Al-Senussi and his alleged accomplices in these activities;

(c) Mr. Al-Senussi's command over the security forces, and his presence in Benghazi immediately after the outbreak of the revolution to manage the situation;

(d) the carrying out by the security forces of numerous attacks on civilian demonstrators in many areas of Benghazi between 15 and 20 February, causing the death of and serious injuries to countless civilians, as well as similar attacks conducted in the country throughout the period of the repression of the revolution against the Gaddafi regime;

(e) Mr. Al-Senussi's direct involvement in the shooting of the civilian demonstrators in Benghazi between 15 and 20 February 2011;

(f) the arrest of journalists, activists and civilians demonstrating against the Gaddafi regime and the role in some of these events of Mr. Al-Senussi and his alleged accomplices; and

(g) instances of detention and torture of civilian dissidents.

On this basis, the Chamber was satisfied that the Libyan investigations include the relevant factual aspects of Mr. Al-Senussi's conduct as alleged in the proceedings before the Court, and concluded, accordingly, that Libya has demonstrated it is undertaking domestic proceedings covering the same case as that before the Court within the meaning of article 17 (1) (a) of the Statute.

In relation to the second limb of the test, whether the State is unwilling or unable genuinely to carry out the investigation or prosecution, the Chamber recalled that the State challenging the admissibility of the case is required to substantiate all aspects of the admissibility challenge to the extent required by the concrete circumstances of the case. The Chamber recognized, however, that an evidentiary debate on Libya's unwillingness or inability will be meaningful only when doubts arise as to the genuine nature of the domestic proceedings. Indeed, although Libya carries the burden of proof, factual allegations raised by any party or participant must be sufficiently substantiated in order to be considered properly raised.

The Chamber's decision took into account, holistically, a broad range of factual allegations raised by the parties and participants that were considered both relevant and sufficiently substantiated. These included the quantity and quality of the evidence collected as part of the investigations related to Mr. Al-Senussi, the scope, methodology and resources of the investigation into Mr. Al-Senussi's case, the recent transfer to the Accusation Chamber of the case against Mr. Al-Senussi and his 37 co-defendants, the example of certain judicial proceedings conducted to date against other former officials of the Gaddafi era, and the efforts made to resolve

certain issues in the justice system through recourse to international assistance. The Chamber took into account the lack of legal representation for Mr. Al-Senussi, the serious security difficulties currently experienced across Libya, the absence of protection programmes for witnesses in the context of this precarious security situation and the difficulties faced by the national authorities in exercising control over certain detention facilities.

The Chamber considered that there is no indication that the proceedings against Mr. Al-Senussi are being undertaken for the purpose of shielding him from criminal responsibility such as would warrant a finding of "unwillingness" within the meaning of article 17 (2) (a) of the Statute. It also concluded that the national proceedings cannot be considered tainted by any unjustified delay which, in the concrete circumstances of the case, would be inconsistent with an intent to bring Mr. Al-Senussi to justice within the meaning of article 17 (2) (b). In addition, the Chamber found that the investigations into Mr. Al-Senussi's case are not being conducted in a manner inconsistent with the intent to bring Mr. Al-Senussi to justice, such as to justify a finding of unwillingness under the cumulative requirements of article 17 (2) (c). In the Chamber's view, the fact that Mr. Al-Senussi's right to benefit from legal assistance at the investigation stage is yet to be implemented did not warrant a finding of unwillingness under that provision, because there was no indication that this is inconsistent with Libya's intent to bring Mr. Al-Senussi to justice, rather it appeared to be a consequence of the current security situation in the country. Accordingly, the Chamber concluded that Libya is not unwilling genuinely to carry out its proceedings against Mr. Al-Senussi.

In relation to the "ability" of Libya to investigate and prosecute the case against Mr. Al-Senussi, the Chamber first addressed the possibility that Libya was "unable to obtain the accused" as a result of a total or substantial collapse or unavailability of its national judicial system within the meaning of article 17 (3) of the Statute. The Chamber found no reason to believe in this aspect of inability, because Mr. Al-Senussi is already in the custody of the Libyan authorities.

The Chamber went on to consider the ability of Libya "to obtain the necessary evidence and testimony", bearing in mind the evidence already gathered and the stage of the proceedings reached at the national level. The Chamber considered the effects of the current security situation across Libya, in particular the absence of effective witness protection programmes, as well as the fact that certain detention facilities are yet to be transferred under the authority of the Ministry of Justice. However, unlike the case against Mr. Gaddafi, where Libya did not satisfactorily demonstrate that it had collected more than a few sparse items of evidence as part of its investigations, the domestic proceedings against Mr. Al-Senussi have so far not been prejudiced by these challenges. Indeed, Libya has provided a considerable amount of evidence, including several relevant witness and victim statements, as well as documentary evidence such as written orders, medical records and flight documents. At least one of the witnesses was interviewed while in detention, and several prospective witnesses are currently detained in the Al-Hadba prison of Tripoli, which is under the control of the Government of Libya. Thus, the Chamber concluded that these factors cannot be said to render Libya unable genuinely to carry out its proceedings.

Taking into account all the relevant circumstances, the Chamber found no other way in which Libya was "otherwise unable to carry out its proceedings" as a result of a total or substantial collapse or unavailability of its national judicial system, which would have satisfied the residual aspect of inability in article 17 (3) of the Statute. The Chamber observed that Mr. Al-Senussi's lack of legal representation in the national proceedings did not lead to such inability. In contrast to the case of Mr. Gaddafi, for whom attempts to secure legal representation have repeatedly failed, in the present case it was submitted that several local lawyers from Mr. Al-Senussi's tribe recently indicated their willingness to represent Mr. Al-Senussi in the domestic proceedings, although they have not yet been given a formal power of attorney.

The Chamber concluded that the case against Mr. Al-Senussi is being investigated by Libya and that Libya is not unwilling or unable genuinely to carry out the investigation. Thus, the case against Mr. Al-Senussi was considered inadmissible before the Court pursuant to article 17 (1) (a) of the Statute.

Finally, the Chamber noted article 19 (10) of the Statute which provides that: "If the Court has decided that a case is inadmissible under article 17, the Prosecutor may submit a request for review of the decision when he or she is fully satisfied that new facts have arisen which negate the basis on which the case had previously been found inadmissible under article 17." The Prosecutor may therefore seize the Chamber with a request for review of the present decision as appropriate.